

REMARKS

In the Office Action dated May 12, 2009, the drawing changes and specification changes that were previously made were objected to as introducing new matter. In response, the amendments made in Figure 1 and in the specification in Applicants' response filed February 25, 2009 have been cancelled.

The specification was objected to under Section 112, first paragraph as not providing support for the invention as now claimed, and claims 1 and 3-8 were rejected under 35 U.S.C. §112, first paragraph as containing subject matter that was not adequately described in the specification.

In response, the language to which the Examiner objected has been removed from claim 1, and claim 1 and the claims depending therefrom are therefore submitted to be in full compliance of all provisions of 35 U.S.C. §112.

Claims 1, 3-5 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Kruse et al, or in the alternative as being obvious over Kruse et al under 35 U.S.C. §103(a).

In response, the subject matter of claims 4 and 5 has been embodied in independent claim 1. This rejection, insofar as it pertains to previous claims 4 and 5, is respectfully traversed for the following reasons.

Amended independent claim 1 now includes the components of an analysis unit that quantitatively determines an amount of the substance in the fluid relative to a predetermined normal amount, and a dosing unit that administers a dose of a medicament into the fluid, the dosing unit causing an additive corresponding to the substance to be added into the medicament if the analysis unit determines that the amount of the substance in the fluid is below the predetermined normal amount.

In substantiating the rejection of previous claims 4 and 5 at page 7 of the Office Action, the Examiner cited column 7, lines 43-59, and column 9, lines 53-57.

In citing the language at column 7, lines 43-59, Applicants respectfully submit the Examiner has taken this language out of context within the overall disclosure of the Kruse et al reference. The language cited by the Examiner at column 7, lines 43-59 must be read in context with the preceding passage, beginning at column 7, line 34. As stated in column 7, lines 34-49, the Kruse et al reference stresses the importance of the gas within the syringe 46 having a composition that is *identical* to the gas within the circuit. The Kruse reference explicitly states:

“Thus, injection of additional gas from syringe 46 during operation will not alter the composition of the gas mixture within circuit 22-42-40, which would impair the accuracy of the intended measurements.”

This is the opposite of the subject matter disclosed and claimed in the present application, wherein the composition of the fluid delivered to the cuff is intentionally altered or modified by adding a medicament that contains an additive of a substance in an amount that is found to be insufficient in the fluid. This statement in the Kruse et al reference, therefore, clearly teaches away from a medical device as disclosed and claimed in the present application.

The Kruse et al reference, therefore, does not disclose all of the elements of amended claim 1 as arranged and operating in that claim, and thus does not anticipate the subject matter of claim 1, nor any of the claims depending therefrom.

Moreover, the explicit statement in the Kruse et al reference makes clear that if the Kruse et al reference were modified (for reasons unknown to the present Applicants) in an effort to arrive at a device as set forth in claim 1 of the present application, this would destroy the intended operation of the Kruse et al device.

Modification of a reference in a manner that destroys its intended operation is not a permissible basis for justifying a rejection under 35 U.S.C. §103(a).

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519.

Submitted by,



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